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Development of an overall approach to trade in view of the coming multilateral negotiations in GATT

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Explanatory Memorandum

1. At their Conference from 19 to 21 October 1972 the Heads of State or of Government of the nine Member States accompanied their programme for strengthening the Community with precise declarations concerning the latter's responsibilities and tasks in the field of external relations. Thus, in paragraph 5 of the Preamble to the Paris Communiqué the Community's resolve to promote the development of international trade is reaffirmed: "This resolve is extended to all countries without exception. The Community is prepared, openmindedly as it has already proved and in line with the IMF and GATT procedures, to enter as soon as possible into negotiations based on the principle of reciprocity, which will allow stable and balanced economic relations to be achieved in monetary affairs and trade and where the interests of the developing countries must receive full consideration."

2. In this connection, it should be pointed out that the establishment of the EEC, far from constituting a handicap to the development of international trade, has, on the contrary, caused a vast expansion of trade both within western Europe and with other parts of the world. Its existence has, moreover, made it easier to obtain, and perhaps even ensured, a successful conclusion to the far-reaching multilateral trade negotiations within the framework of the GATT.

The GATT system, which had freed the post-war world from the arbitrariness of purely national trading policies, had become blocked by the limitations inherent in the fact that a great many small and medium sized partners were confronted by a much stronger one. The principle that all were equal—expressed in the most favoured nation rule—contrasted too sharply with the actual inequality in terms of importance and therefore, of commercial potential. Hence the movement towards free trade areas and customs unions.

Following the establishment of the EEC, the industrialized nations—and amongst them particularly Europe and the United States—agreed

to mutual reductions in trade barriers, within still modest limits in the Dillon Round, but on an unprecedented scale after the United States Congress passed the Trade Expansion Act (Kennedy Round). The Community emerged from these negotiations with the lowest customs tariff of any of the major trading powers, amounting to hardly more than half the average of the original tariffs of its Member States.

This vast movement of liberalization and almost uninterrupted economic expansion within the Community have made possible a remarkable expansion of its international trade. This in turn has provided the basis for a high and stable level of employment and the rise in the standard of living of recent years.

3. For the enlarged Community, as for the "Six", international trade constitutes an essential and increasingly important element of economic development. What is at issue therefore is that the policy of trade liberalization to which the original Community contributed so much should be confirmed and further pursued. In this context the Community is aware that it accepts certain responsibilities of its own at the international level, both towards other industrialized countries and towards the developing countries. It expects its partners to approach the negotiations in the same spirit and with the same concern to establish stable and balanced economic relations.

This note deals only with the trade negotiations, on the assumption that adequate machinery will be developed in the monetary field to ensure for the long term the balance and stability that are essential. It should be emphasized that international measures in the field of trade on the scale contemplated would be placed in serious jeopardy unless means were found to protect the world economy from monetary upheavels and imbalances such as those which have occurred recently.

If the defects of the monetary system cannot be put right by measures in the commercial field, neither can a policy of world trade

liberalization be successfully pursued unless joint efforts are made to set up an adequate monetary system.

4. Even before enlargement, the Community had expressed the political will to undertake wide-ranging trade negotiations with its partners. In December 1971 the Council declared that "the Community is ready... to take part in global negotiations on the basis of mutual advantage and reciprocity and requiring an effort from all the participants". This was confirmed by the "Joint Declaration" accompanying the limited agreement with the United States in 1972, which affirmed the necessity to "initiate and actively support multilateral and comprehensive negotiations in the framework of GATT"... "conducted on the basis of mutual advantage and mutual commitment with overall reciprocity".

In October 1972 the Summit Conference invited the Community institutions to define a "global approach" to these negotiations by 1 July 1973, and expressed the hope that they could be concluded before the end of 1975. Hence, it is essential for all partners to make the necessary preparations so that they can actually begin negotiations immediately after the summer of this year.

The following chapters deal with the fields to be covered in the negotiations, and with the broad lines to be followed in order to achieve results satisfactory to all partners.

The Community, faithful to the guidelines laid down for its own development and to its own special responsibilities, will take part in these negotiations on the basis that those elements basic to its unity, i.e. the customs union and its common policies, in particular the common agricultural policy, cannot be called in question.

Chapter I

General objectives of the negotiations

A Council Resolution of 13 December 1971 stated:

"The changes in economic relations necessitate an overall examination of the world economic structure and the conditions for a new international balance, which would enable the standard of living to be improved by expanding international economic relations and liberalising world trade to an ever wider extent."

Starting from these general considerations, the Community's objectives in these negotiations are defined as follows:

1. to consolidate and continue the liberalization of international trade on the basis of reciprocity and mutual advantage;
2. to improve the opportunities for the developing countries to participate in the expansion of world trade and to ensure a better equilibrium between developed and developing countries as regards the opportunities for this expansion. The Community will, for its part, contribute actively to this objective without jeopardising the advantages enjoyed by those countries with which the Community has special relations.

Chapter II

Industrial customs tariffs

1. As far as tariffs are concerned, the trade negotiations must lead to a significant lowering of customs tariffs.

2. The formula for lowering customs tariffs on industrial products must be simple and generally applicable.

3. While recognizing that mutual advantage and reciprocity must be sought in the overall outcome of the whole range of the negotiation, the aim should be to seek, so far as possible, reciprocity in each individual field, in particular as far as tariffs are concerned.

4. It has been suggested that the total elimination of all customs tariffs might be taken as a working hypothesis for these negotiations. In the present state of international economic relations this does not seem realistic for two main reasons. First because of the extent of customs duties on certain products and in certain countries, which protect economic sectors that are already experiencing real difficulties in standing up to competition; and secondly because of the lack of international organization and harmonization of national policies concerning, for instance, taxation, social legislation and measures to stimulate economic development.

5. The formula for lowering customs tariffs must necessarily take into account the considerable differences which exist between the tariffs applied by the developed countries. Quite apart from the question of the general level of tariffs, there are also structural differences. Some countries apply tariffs of a roughly homogeneous level to all products while others apply very high tariffs to some products and much lower ones to others. The formula adopted should aim, within the overall objective of lowering tariffs, at levelling off the differences caused by these peaks and troughs. This would have the effect of creating more

equitable conditions for trade and diminishing the present inequalities in the tariff protection of the various developed countries. This is the only approach which would make it possible to avoid a situation in which, following further reductions of customs tariffs, some would be so low that certain countries would have little hope of subsequently obtaining reductions in the higher customs duties which others would still be maintaining.

6. The formula for lowering tariffs should therefore be based on the principle of the higher the tariff the greater the reduction of customs duty. A threshold or floor should be set below which no reduction would be required, which would prevent those countries with highly diversified customs tariffs being obliged to lower them to such an extent that it would be difficult to achieve reciprocity.

7. The formula should take into account that the real level of protection has to be calculated on the basis of the value added.

8. This general approach should in no way exclude the possibility of seeking, during the negotiations, on a basis of reciprocity, concessions going beyond the general rule and aimed at eliminating customs duties on certain products. The possibility of negotiating, in certain sectors, on a basis covering both tariffs and non-tariff barriers with the aim of achieving a balanced result should also be envisaged.

9. The further lowering of customs tariffs inevitably involves a reduction in the preference margin from which developing countries benefit in those developed countries which have introduced the Generalised Preference Scheme. In anticipation of the implementation of the generalised Preference Scheme by all developed countries, the Community should take steps to improve its own scheme in accordance with the directives given by the conference of Heads of State or of Government in October 1972. (See Chapter V on developing countries.)

Chapter III

Non-tariff barriers

1. The diversity of non-tariff barriers makes it unrealistic to seek a solution of a general character; there must therefore be a case by case approach while still bearing in mind that in some cases there is an interdependence.
2. The existence of so many types of non-tariff barriers (classified by GATT under nearly thirty chapter headings each subdivided into a number of more or less similar individual measures applied by different countries) seems to preclude finding solutions for all the measures listed. It is therefore desirable that certain types of measures be selected on which negotiation would take place but without excluding the possibility that other barriers may be added to the list in the course of the negotiations should this prove necessary.
3. Work has already begun, or will shortly begin, in GATT or the OECD, on subjects chosen by mutual agreement which will almost certainly be the object of negotiations. These consist of quantitative restrictions (including voluntary limitation of exports), customs valuation, licensing systems, technical standards and regulations, labelling and packing, export subsidies and other aids affecting commerce, countervailing duties, and government procurement.
4. Reciprocity is harder to assess over non-tariff barriers than over customs duties, so a broad spread of solutions will be needed to make up a worthwhile and well-balanced package.
5. Many similar measures are applied by a large number of countries and therefore lend themselves to multilateral solutions, whether by abolition or amendment or by agreement on greater harmony or discipline. These solutions may involve constraints of varying degrees, and may take the form in some cases of

interpretative notes to the existing provisions of the General Agreement, and in others of general principles or codes of behaviour. Although it is clearly desirable to aim at the maximum degree of balance between commitments in each subject negotiated, it should be recognised that in certain subjects there are from the outset some built-in imbalances.

6. For certain measures which are applied by only one or two countries, the solution may take the form of a single limited decision (abolition or adaptation), without there being any need to lay down general rules.
7. The Community will have to specify the non-tariff barriers of its trading partner which it wishes to see dealt with in the negotiations. It will no doubt be desirable to supplement the list of subjects referred to in paragraph 3 with a limited number of other measures. For their part, the Community and its Member States must also declare their readiness to negotiate on some of the measures they themselves apply, in seeking a multilateral or restricted solution. Since, in the nature of things, it is essentially the Member States' measures that are at issue here, they must agree in the near future on a sufficient number of negotiable measures to enable adequate reciprocity to be offered in return for what the Community will be seeking from its partners.
8. The solutions arrived at should be accepted by as many countries as possible if the existing imbalance between the various contracting parties is not to be worsened. It should therefore be made clear that any advantages which might derive from solutions comprising obligations going beyond the present GATT rules would be reserved for countries which in practice abide by these solutions (conditional application of the most-favoured-nation clause).
9. With this same need for balance in mind, all the contracting parties should cease to

benefit from the exemption provided by the Protocol of Provisional Application.

10. The agreement reached on non-tariff barriers should include appropriate machinery for consultation and the settlement of disputes. This machinery would both deal with differences in interpretation of the agreement and with any outstanding difficulties not dealt with in the negotiations or with any non-tariff barriers which may appear after conclusion of the negotiations.

Chapter IV

Agriculture

1. The principles of the Common Agricultural Policy should not be called into question in dealing with this sector.

The objectives of the negotiations in the agricultural sector should be in harmony with the general objectives of the negotiations but should also take into account the fundamental and specific characteristics of agriculture.

2. Two characteristics of the agricultural sector are the universal existence of support policies—of which the internal and external aspects are unavoidably linked—and the instability of world markets. The specific objective of the agricultural negotiations should therefore be “the expansion of trade in stable world markets”. Such an objective can only be achieved by means of a joint effort by all the principal partners in the negotiations, within the framework of their own agricultural policies.

3. As the structural situation is at the root of many agricultural problems, it is in the interest of all negotiating parties, in order to attain this objective, to intensify structural reforms so that marketing policies and price policies are based to a greater extent on economic considerations. A declaration of intent in this field might be worked out, without of course infringing each party's right to take its own decisions.

4. The conditions for expanding trade would be more favourable if the stability of world markets was better assured. The best means of obtaining this objective would be the adoption of a code of good conduct covering export practices. Such an arrangement would presuppose an analogous effort by all major parties to the negotiations. For a number of specified products, complementary commitments could be entered into within the framework of international arrangements.

5. The code of good conduct on export practices should aim at introducing market disciplines with concerted action on the use and scope of the rules agreed.

6. For products such as cereals (wheat, flour and feed grains), rice, sugar and the most homogeneous milk products (e.g. milk powder and butter) the Community will propose the negotiation of a price mechanism (including minimum and maximum prices) accompanied by measures covering an adjustment of supply, including measures of storage which would, among other things, facilitate the application of food aid programmes. The Community considers that the best method of applying such engagements would be by the negotiation of international arrangements.

7. This reordering of world markets, especially with adequate assurances as regards stability, would make it possible to adjust certain elements of the import systems within a general framework in which overall reciprocity is achieved.

8. The aim of all these measures would be to promote the regular expansion of trade, within the framework of each negotiating party's own agricultural policies. The Community, for its part, while honouring the principles of the CAP, would apply the instruments of this policy in such a way as to ensure that the commitments thus undertaken were respected.

9. The problems caused by the harmonization of legislation covering both human and plant health and of the various rules on the use and treatment of products should also be covered in the negotiations.

10. Although the measures set out above are aimed at improving world markets which will also benefit developing countries, the developed countries should also take additional action on those products of particular interest to the developing countries. This would for example take the form of measures of a preferential character, which would give these countries a chance to increase their export revenue.

Chapter V

The developing countries

1. The developed countries have agreed to take particular account in these negotiations of the interests of developing countries. That is to say, the developed countries will not only try to ensure that the developing countries do not suffer indirect disadvantages, but will also help to expand the developing countries' trade and improve their export revenue. This was emphasised in the declaration of intent made by the Community on 13 December 1971; in the Joint Declaration by the United States and the Community in 1972; and again in the communique of the Summit Meeting in October 1972, which also states that the task will have to be accomplished without detriment to the advantages enjoyed by those developing countries with which the Community has special relations.¹

The Community's objective as regards the developing countries in general should be to achieve a coherent body of measures and a balanced contribution by industrialized countries. There are, however, great differences between the levels and the opportunities of development in the various developing countries, so the Community would wish to reserve for itself the possibility of varying its action to meet the particular needs of individual countries. Such variation could relate, in particular, to the nature of the concessions made to different developing countries, to the choice of products, and to a degree of reciprocity which might be required of the more advanced developing countries.

2. Tariffs

(a) In the field of generalized preferences, the Community would wish to improve the

¹ Cf. separate Commission Memorandum on the preparation of negotiations with these countries: Supplement 1/73 Bull. EC.

scheme which it has been applying for nearly two years now. But these improvements must be dependent upon other industrialized countries, and in particular the United States, introducing a scheme comparable in its effects with the Community scheme.

Subject to this condition, the system of generalised preferences could be improved in two ways:

(i) by including a larger number of processed agricultural products in the list of products which benefit from preferences and by increasing the margin of preference for those already included;

(ii) by raising the quantitative ceilings and making the detailed rules of application more flexible.

(b) The proposal in Chapter II that there should be no reduction in duties below a certain level would mean in effect that a margin of preference for developing countries would be maintained in these special cases.

(c) Finally, the Community reserves the right to propose to other developed countries in the course of the negotiations that by joint agreement exceptions to the general formula of tariff reduction might be introduced for a small number of products which are included in the system of generalized preferences and in which the less developed countries have a particular interest.

3. *Non-tariff barriers*

In the field of non-tariff barriers the developed countries should endeavour to take particular account of the interests of developing countries both in adapting rules and in reducing or abolishing certain *quantitative restrictions* which especially affect exports from developing countries. In return the developing countries could make a contribution which would be in their own interest by simplifying their administrative system for imports.

4. *Agricultural products*

(a) In any international arrangements to regulate the markets for certain agricultural products, the interests of the developing countries should be taken into account, in particular through efforts to lighten the burden which some of the provisions could involve for these countries.

(b) Food aid commitments can be envisaged in the context of regulation of the markets.

(c) Moreover, as is stated in Chapter IV, "the developed countries should also take additional action on those products of particular interest to the developing countries. This would for example take the form of measures of a preferential character, which would give these countries a chance to increase their export revenue."

Chapter VI

Safeguard clause

1. The object of a safeguard clause must be to enable purely transitory difficulties to be overcome or to give the branches of activity concerned the period of adaptation which they need in order to adjust themselves to the requirements of international competition.

2. The current provisions of Article XIX of the General Agreement should be maintained as they are. It must, however, be recognized that this Article has proved difficult to operate effectively. For this reason it might be advisable to supplement it, on the understanding that the countries concerned would retain their right to have recourse to the current provisions of Article XIX. Such a supplement to Article XIX could provide for it to be used in a selective fashion.

3. This new system would on the one hand involve both greater flexibility in the type of safeguard measures allowed, and a limitation in the compensatory or retaliatory rights of the third countries concerned. On the other hand any country having recourse to it would have to accept increased control procedures and requirements relating to the conversion or adaptation of the economic sectors concerned.

4. These supplementary arrangements might be as follows:

(a) Type of measures and their scope:

(i) To prevent the measures from having a more extensive impact than is necessary, a selective application as regards the form of the measure would have to be authorised while maintaining non-discrimination as regards its substance. All imports which contribute in the same way to disorganizing the market would be dealt with in the same manner.

(ii) The character of the safeguard measure could vary, on the understanding that imports would not be restricted to a level lower than

that reached during a short reference period before the measure was applied.

(b) Duration of the measures:

Recourse to them should be temporary, and their mode of operation shall be degressive. It will be a necessary condition of the temporary nature of the measures that agreed adjustments take place during the period of recourse to them.

(c) Rights of injured third countries:

The right of injured countries to compensation or to compensatory withdrawal would be suspended provided all the conditions are fulfilled.

(d) Procedures:

(i) Taking into account the greater flexibility thus provided for in these arrangements, a permanent institutional supervisory mechanism consisting of independent personalities should be set up to which possible disputes could be referred.

(ii) It would be necessary to make the emergency procedure really exceptional. Prior notification should be demanded in all cases.

Any new procedure for applying such measures must not have the sole effect of making the mechanism more flexible but must at the same time lay down the precise criteria for their application and must strengthen the means for supervising the use of such measures.